

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JIM ROBERT DAVIS AND  
ROMA DAVID WHITTEN  
Plaintiffs,

VS.

RICHARD WAYNE SHAW AND  
CERTIFIED EXPRESS, INC.

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CIVIL ACTION NO. 21-3543

JURY TRIAL REQUESTED

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**DEFENDANTS RICHARD WAYNE SHAW AND CERTIFIED EXPRESS, INC.'S  
NOTICE OF REMOVAL**

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TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendants, RICHARD WAYNE SHAW AND CERTIFIED EXPRESS, INC., file this Notice of Removal pursuant to 28 U.S.C. §§1441 and 1446, showing the following basis for removal.

**INTRODUCTION**

1. Plaintiffs, JIM ROBERT DAVIS and ROMA DAVID WHITTEN, filed Plaintiffs' Original Petition against Defendants on August 31, 2021, under Cause No. 2021-55271, pending in the 55<sup>th</sup> District Court, Harris County, Texas. Defendant RICHARD WAYNE SHAW was served with citation on October 7, 2021. CERTIFIED EXPRESS, INC. is appearing voluntarily and consents to this removal.

2. Defendants, RICHARD WAYNE SHAW, was served with Plaintiff's Original Petition on October 7, 2021. A copy of the Return of Citation was filed with the Court on October 8, 2021. CERTIFIED EXPRESS, INC. is appearing voluntarily.

3. This original Notice of Removal is filed within thirty (30) days of service upon Defendants RICHARD WAYNE SHAW and CERTIFIED EXPRESS, INC., the statutory period

for removal as required under 28 U.S.C. §1446(b).

### **JURISDICTION**

4. This court has removal jurisdiction over this lawsuit pursuant to 28 U.S.C. §§1441 and 1446 and based upon diversity of citizenship under 28 U.S.C. §1332. Plaintiffs, JIM ROBERT DAVIS and ROMA DAVID WHITTEN, are domiciled in Tomball and are citizens of the State of Texas. Defendant, RICHARD WAYNE SHAW, is domiciled in Neosho Missouri and therefore a citizen of the State of Missouri. Defendant, CERTIFIED EXPRESS, INC., is a corporation established under the laws of the State of Missouri with its principal place of business in Neosho, Missouri, and therefore a citizen of the State of Missouri. Thus, there is diversity of citizenship between the parties before the Court.

### **BASIS FOR REMOVAL**

5. Diversity of citizenship under 28 U.S.C. §1332. Plaintiff is a citizen of Texas and the properly joined Defendants are citizens of other states.

6. Consistent with TEX. R. CIV. P. 47, Plaintiff seeks monetary relief over in excess of the minimum Jurisdictional limits of this Court as reflected in Petitioner's Original Petition. Therefore, based on information and belief of Defendants herein, Plaintiffs are seeking damages in excess of this court's jurisdictional minimum of \$75,000.00, excluding interest and costs.

7. All Defendants who have been properly joined and served join in or consent to the removal of this case to federal court. 28 U.S.C. §1446(b)(2)(A); *Cook v. Randolph Cnty.*, 573 F.3d 1143, 1150-51 (11th Cir. 2009); *Pritchett v. Cottrell, Inc.*, 512 F.3d 1057, 1062 (8th Cir. 2008); *Harper v. AutoAlliance Int'l, Inc.*, 392 F.3d 195, 201-02 (6th Cir. 2004).

8. All pleadings, process, orders, and other filings in the state court action in the possession of Defendants are attached to this notice as required by 28 U.S.C. §1446(a).

9. Venue is proper in this district under 28 U.S.C. 1391(b)(2) because Plaintiff is a

resident of Harris County, Texas and the incident made the basis of the suit occurred in Harris County, Texas. Defendants are residents of Missouri.

10. Defendant will promptly file a copy of this Notice of Removal with the clerk of the state court where the action has been pending.

**JURY DEMAND**

16. Defendants hereby make a demand for a jury trial.

**CONCLUSION**

For these reasons, Defendants RICHARD WAYNE SHAW AND CERTIFIED EXPRESS, INC., therefore, give notice of their removal of this lawsuit to this Court, and an automatic stay of further proceedings in state district court.

Respectfully submitted,

**RAMEY, CHANDLER, QUINN & ZITO, P.C.**

/s/ Lee D. Thibodeaux

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**ATTORNEYS FOR DEFENDANTS**

**RICHARD WAYNE SHAW AND CERTIFIED  
EXPRESS, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served upon all counsel of record, in accordance with the rules, on this the 27<sup>th</sup> day of October, 2021 as follows:

Michael E. Pierce  
Kyle W. Chapel  
Pierce Skrabanek, PLLC  
3701 Kirby Dr., Suite 760  
Houston, TX 77098

/s/ Lee D. Thibodeaux  
Lee D. Thibodeaux